

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CRIMINAL JURISDICTION
WRIT PETITION NO. 1580 OF 2006**

Mr.Abu Salem Abdul Gayoom Ansari .. Petitioner
@ Abu Salem
versus

The Union of India & ors ... Respondents

Mr.Nitin Pradhan, Sr.Advocate for Petitioner

Mr.R.F.Lambay, P.P.for Respondents

**CORAM : J.N.PATEL AND
SMT.ROSHAN DALVI, JJ
DATED : 16th August, 2006**

ORAL ORDER :

1. We have heard learned counsel for the petitioner as well as the learned Public Prosecutor and we are of the view that it will be appropriate on the part of the petitioner who is aggrieved by the order passed by the designated Judge in

B.B.C.No.1 of 1993 on 18th March, 2006 and order dated 13th June, 2006 passed in Misc. Application No.144 of 2006 to prefer an appeal to the Hon'ble Supreme Court as provided under section 19 of the TADA (P) Act, 1987 rather than entertaining the matter in exercise of our writ jurisdiction particularly in view of the observations made by the Supreme Court in the case of **State of Maharashtra vs Abdul Hamid Haji Mohammed reported in (1994) 2 Supreme Court Cases 664.**

2. Learned counsel for the petitioner submits that if this Court is not entertaining the petition in exercise of its extra-ordinary jurisdiction under Article 226 and 227 of the Constitution of India, the petitioner would prefer an appeal before the Supreme Court but, in the meantime the Court may protect the petitioner in so far as other cases registered against him are concerned and pending in various Courts in addition to B.B.C.No.1 of 1993 and that the Courts in other cases should not proceed to frame charge for the reason that the petitioner came to be arrested in all these cases on the basis of an order of extradition passed by the authorities in Portugal and the extradition order specifically permits the trial of the

petitioner only in the cases mentioned therein and for specific offences referred in the order relating to the penal law which is also the subject matter of challenge, as the petitioner is being tried for offences contrary to the order of extradition.

3. We make it clear that it will be open for the petitioner to move the concerned Court for deferring framing of the charges in other cases on the ground that the petitioner has preferred an appeal against the impugned order before the Hon'ble Supreme Court and it is left to the discretion of the respective Court where the petitioner is being tried in other cases to take a decision in the matter in accordance with law.

4. Before we part with the petition, we may also express that it is high time that the designated Court ought to have pronounced the judgment in B.B.C.No.1 of 1993. With these observations, we permit the petitioner to withdraw this petition so as to enable him to prefer an appeal before the Supreme Court as provided under the TADA (P) Act, 1987.

5. Petition stands disposed of accordingly.

(Smt Roshan Dalvi,J)

(J.N.Patel, J)